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Subject: News Articles (For EPA Distribution Only)

BNA DAILY ENVIRONMENT REPORT ARTICLES

[Peru Says It Is Not Violating Environmental Annex in Trade Deal](#)

By Lucien O. Chauvin

Posted Dec. 20, 2018, 6:16 PM

Peru said it is not violating landmark environmental provisions included in its nearly decade-old free trade agreement with the U.S.

'Calamitous' Harm Possible for EPA Chemical Program in Shutdown

By Pat Rizzuto

Posted Dec. 20, 2018, 5:50 PM

Shutting the government down could have particularly severe effects on the EPA's oversight of chemicals in commerce and further delay the entry of new chemicals onto the market, two attorneys specializing in chemical policy told Bloomberg Environment.

INSIDEEPA.COM ARTICLES

Appellate Court Partially Grants EPA Request To Narrow TSCA Risk Suit

A federal appellate court has granted EPA's request to vacate and remand a provision in its Toxic Substances Control Act (TSCA) rule for evaluating risks of existing chemicals that would allow industry submitters to face criminal penalties for providing incorrect information.

GREENWIRE ARTICLES

Shutdown back on the table as Trump balks

George Cahlink, E&E News reporter

Published: Thursday, December 20, 2018



House Speaker Paul Ryan (R-Wis.) in the Capitol this morning. Republicans are feuding over spending legislation. Tom Williams/CQ Roll Call/Newscom

President Trump says he won't sign a stopgap spending bill that would avert a partial government shutdown beginning at midnight tomorrow.

White House press secretary Sarah Huckabee Sanders said this morning in a statement that "at the moment" the president does not support a plan to level-fund a host of agencies — including EPA and the Interior Department — through Feb. 8.

EUROPEAN UNION

Officials agree on single-use plastic ban

Published: Thursday, December 20, 2018

Plastic knives just won't cut it any longer, if the European Union has its way.

The 28-nation bloc moved closer to banning single-use straws, plates, cutlery and cotton swabs, after officials from E.U. member states and the European Parliament yesterday backed recommendations by its executive branch designed to reduce marine pollution.

Environmental campaigners have been calling for curbs on throwaway plastic that's accumulating in the oceans because, unlike organic materials, it doesn't decompose but simply breaks down into ever smaller pieces.

Scientific studies have found minuscule particles known as microplastics are being consumed by animals throughout the food chain, though the impact on human health is unclear.

CHEMICAL WATCH ARTICLES

Court grants EPA motion to revisit provision of TSCA risk evaluation rule

But Ninth Circuit sides with NGOs on 'relevancy' and 'consistency' provisions

20 December 2018 / Legal cases, TSCA, United States



A California court has given the US EPA the go-ahead to vacate and reevaluate a provision of its TSCA risk evaluation rule that allows for criminal penalties against those who submit inaccurate or incomplete information to the agency.

However, the US Court of Appeals for the Ninth Circuit only agreed in part with the agency's request to revisit certain aspects of the rule. And in an 18 December order, it referred the EPA's motion to address two other provisions.

The news marks the latest development in ongoing litigation over the TSCA risk evaluation and prioritisation rules. Brought by a broad coalition of NGOs in 2017, the litigation claims the rules were swung unfairly in industry's favour from original proposals issued under the Obama administration.

In August, the agency requested that the court allow it to take a second look at three provisions of its risk evaluation rule, in view of concerns raised in an NGO opening brief.

The court has granted the EPA's request for voluntary remand in the case of the so-called penalty provision. But with regard to two other provisions – the 'relevancy provision' and the 'consistency provision' – it referred those to the merits panel.

The NGO petitioners had objected to the EPA's request to voluntarily reevaluate these two provisions, which both deal with manufacturer-requested risk evaluations. In a September response, the groups argued that because the EPA sought remand for these without *vacatur* – that is, they will remain in effect while undergoing review – it would block the NGOs from seeking judicial review on them.

Moreover, they objected that EPA had only formed an intent to revisit the contested portions, without any mandate to do so.

The petitioners did not, however, object to the EPA's request to remand the penalty provision, because the agency sought *vacatur* for that element.

Broader litigation progresses

The core issue at stake in the litigation, however, remains whether the EPA has appropriately interpreted its mandate to evaluate a substance's 'conditions of use'. And in that respect, the case continues to press on.

Last month, the petitioning organisations filed a response brief to the EPA's August principal brief. In it, they continued to argue that the EPA "defied [its] statutory directives by promulgating framework rules designed to narrow its chemical evaluations, minimising the chance EPA will identify unreasonable risks that would compel regulation."

More specifically, they argued in their response brief that the agency:

- must consider legacy uses in its evaluations;
- has failed to show how excluding certain conditions of use from its reviews is consistent with TSCA;
- has not demonstrated that use-by-use findings of 'no unreasonable risk' can be squared with the health-protective purpose of TSCA; and
- has not justified aspects of its framework rules that will deny its access to 'reasonably available' information.

Oral arguments in the case, *Safer Chemicals Healthy Families, et al versus EPA*, are expected in 2019.



Kelly Franklin

North America editor

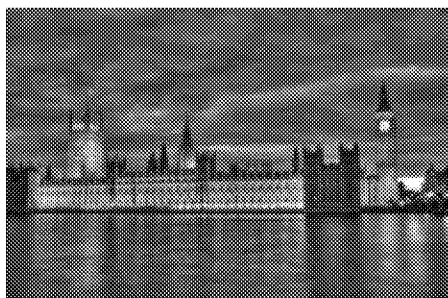
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- [EPA to revisit three provisions in TSCA risk evaluation rule](#)
- [NGOs focus on 'conditions of use' in TSCA framework rules suit](#)
- [NGOs protest EPA plan to revisit TSCA risk evaluation rule](#)

UK to launch new chemicals strategy

Consultation due next year under resources and waste plan

21 December 2018 / POPs, REACH, Substances of concern, UK



The UK's Department for the Environment, Food and Rural Affairs (Defra) has said it will generate a new chemicals strategy that aims to manage substances sustainably and address barriers to reuse and recycling.

The commitment was included in the government's new Resources and Waste Strategy announced in December. The policy falls in line with the UK's 25-year environment plan, published in January.

Leaving the EU on 29 March next year is "an opportunity to refresh and renew" environmental policy, and "show domestic and international leadership", UK environment secretary Michael Gove said in the paper.

The chemicals strategy, Defra says, will "look to address" the presence of harmful chemicals in products and set minimum ecodesign standards. It will also consider how it addresses identification and tracking of chemicals in products across supply chains to support a circular economy.

Additionally it would establish the government's approach to working internationally to "strengthen" standardisation of methods that assess chemicals safety. This will support the mutual acceptance of data to identify and share information on emerging concerns and new approaches to risk assessment, it says.

The strategy will also "shape" the post-2020 framework under the Strategic Approach to International Chemicals Management (Saicm) to target tackling chemicals throughout the product lifecycle and ensure actions are based on strong scientific evidence.

This will also mean action to address issues associated with the presence of persistent organic pollutants (POPs) in products, including by:

- establishing a work programme to effectively implement regulations for both legacy and future products containing these pollutants;
- continuing to fund targeted research on POPs and other substances of concern aimed at increasing the knowledge base;
- encouraging innovation on chemical identification and extraction technologies through working with stakeholders and industry; and
- continuing to engage internationally to align rules on the classification of hazardous chemicals with hazardous waste rules.

Consultation

The UK says it will launch a call for evidence in 2019, but did not provide a firmer date. The aim of the call will be to inform the chemicals strategy and help the government to define substances of concern. Under REACH, SVHCs are identified but these "are not the only substances that can create barriers for recycling", the strategy says.

The consultation will also assist the UK in finding and monitoring chemicals in products across global supply chains and to consider different rules for substances in primary and secondary materials.

Additionally, it says, feedback will facilitate better communication between recyclers and designers so that hazardous components are designed for easier dismantling, and destroyed to increase safe recycling operations.

And, it adds, the government will consult in the summer on further ways to encourage hazardous waste producers to implement the waste hierarchy.

The development of clear guidance on the Best Overall Environmental Option (Boeo) for problematic wastes, it says, would promote the adoption of waste management practices "that make sure hazardous chemicals in wastes do not pose a continuing risk to human health and the environment and don't end up contaminating secondary raw material streams".

NGO reaction

CHEM Trust executive director Michael Warhurst said it is crucial that the strategy "takes as its starting point a commitment to follow all EU decisions in REACH and related regulations, to make sure the UK maintains these world-leading standards".

Ideally, Mr Warhurst added, this would include the UK continuing to participate in REACH. The focus of policies on waste and chemicals should be on reducing the use of hazardous chemical at source, and on ensuring that such chemicals are not re-circulated through the circular economy, he said.

"We also welcome the recognition that extended producer responsibility could be part of the solution for dealing with chemicals in products – such as furniture and building products, where chemicals are often present – which have since been banned, for example brominated flame retardants."



Luke Buxton

EMEA desk editor

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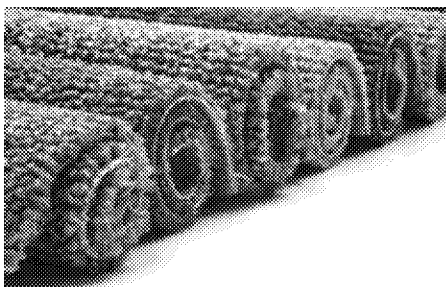
Further Information:

- [Resources and waste strategy](#)

NGO urges EU elimination of hazardous chemicals in carpets by 2025

Manufacturers endorse circular economy approach

21 December 2018 / Alternatives assessment & substitution, Europe, Green chemistry, Substances of concern, Textiles & apparel



A European NGO has called on carpet manufacturers to agree to a target for all commercial and household carpets put on the EU market to be free of potentially harmful substances by 2025.

And Zero Waste Europe has called for carpets to be separately collected, reusable and fully recyclable by that date.

Its comments, in a joint statement alongside companies providing innovative solutions to the carpet industry, comes in support of the release of a 'policy toolkit' by consultant Eunomia. Commissioned by NGO Changing Markets Foundation, this looks at opportunities to reduce the environmental and health impacts of carpet and increase carpet circularity.

The toolkit, aimed at EU member states, outlines two policy packages:

- a fully mandatory extended producer responsibility (EPR)-led approach, designed to meet the needs of those EU member states with the highest circular economy ambitions; and
- an alternative where EPR is not immediately possible, using additional "essential requirements" to drive eco-design and mandatory take back and taxes being used to respectively facilitate and pay for the waste management aspects.

The report also provides comprehensive individual policy measures and ways in which each one might best be applied to foster a circular economy.

Responding to the report, Zero Waste Europe says it wants the carpet industry to "go circular" and calls for mandatory rules to push the sector in this direction.

In order to make the 2025 goal a reality, it says the sector "must phase out hazardous substances and virgin materials, and transition towards safe and healthy components including an increasing rate of recycled or renewable content".

"The time is ripe for a circular economy for carpets, but this will only happen if a mandatory approach with ambitious policies is adopted."

Manufacturer support

Zero Waste Europe says it has contacted several carpet manufacturers, as well as industry associations, to join its move and take action. The initiative is already supported by DSM-Niaga, Interface and Tarkett.

Mandatory disclosure of ingredients is "an urgent part of extended producer responsibility, since it supports the consumer to make better choices and the supports recyclers to handle products in the right way," Lukas Hoex, manager strategic growth at DSM-Niaga, said.

Geanne van Arkel, head of sustainable development (EMEA) at Interface, said the company has implemented circular solutions to create products "including identification and elimination of materials of concern, introduction of recycled materials and new processes to reclaim and reuse products across our global business".

And Myriam Tryjefaczka, sustainability and public affairs director (EMEA) at Tarkett, said that "material transparency, eco-design and either closed or open loops are fundamental to develop a healthy and circular economy in the long run".

In the US this month a group of research institutes and NGOs pressured US carpet manufacturers to increase efforts to remove chemicals of concern, such as PFASs and phthalates, from their products.

Meanwhile in Europe, the EU's non-toxic environment strategy, due by the end of the year, will be postponed until the new European Commission takes office in 2019, the EU executive recently said.



Luke Buxton

EMEA desk editor

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- NGO, researchers call for US action on substances of concern in carpets
- EU delays non-toxic strategy until new Commission takes helm

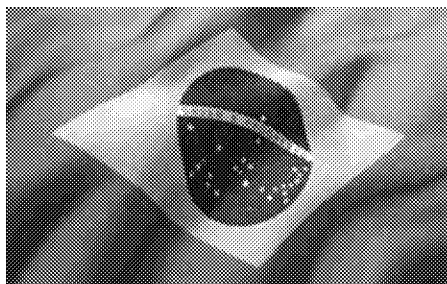
Further Information:

- Joint statement
- Policy toolkit report

Brazil granted UN funding to implement chemicals policy

More than \$400,000 will help finance three-year project

21 December 2018 / Brazil, Chemical manufacturing, Substance notification & inventories



A UN financing programme has granted Brazil funding of more than \$400,000 to help implement its industrial chemicals policy.

The country recently released its draft policy, which sets out the its plan to create a national inventory of substances and strengthen the management of chemicals.

Brazil will receive \$402,901 through UN Environment's Special Programme Trust Fund. This is financed through contributions by countries signed up to the Basel, Rotterdam, Stockholm and Minamata Conventions. Brazil will add \$298,481 from its own budget.

The money will be used to implement the chemicals policy, as well as the Conventions and activities of the UN's Strategic Approach to International Chemicals Management (Saicm).

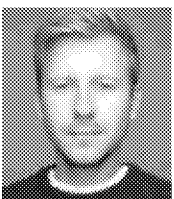
The funds will largely help achieve measures set under a three-year project with UN Environment. This aims to "strengthen the legal and institutional frameworks" for managing chemicals in the country. The measures are to:

- raise awareness regarding chemicals and waste management issues among decision- makers, the media and the public;
- evaluate international information systems for monitoring chemicals and design such a system to meet Brazil's needs;
- evaluate the current infrastructure available for chemicals management in Brazil and propose improvements; and
- train those responsible for enforcing the law, as well as members of Brazil's proposed technical and deliberative committees, which will be responsible for selecting substances and imposing regulatory measures.

Leticia Reis de Carvalho, director of the environment ministry's department of environmental quality in industry, told Chemical Watch: "The Special Programme Project represents an opportunity to improve the chemicals agenda in Brazil, providing the necessary funds to promote the actions needed in order to achieve a better chemicals management strategy."

The draft policy is currently being reviewed by Brazil's legal advisory unit. From there, it is expected the draft will move on to the country's executive office – the Civil House – which sends proposed laws of the executive powers to Congress where it is signed into law.

It is unclear when the policy will become law or whether the legislative plans will be affected once the successful presidential candidate Jair Bolsonaro takes office on 1 January.



Leigh Stringer

Global Business Editor

Related Articles

- [Brazil releases draft law for chemical management](#)

Further Information:

- [Project and funding details](#)

- [UN press release](#)

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